

To: CN=Erin Foresman/OU=R9/O=USEPA/C=US@EPA[]
Cc: []
From: CN=Karen Schwinn/OU=R9/O=USEPA/C=US
Sent: Tue 8/14/2012 4:34:35 PM
Subject: Fw: BDCP: Draft Corps letter to DWR on Purpose (UNCLASSIFIED)
Letter to Dale on Purpose Statements DWR OK With this language 050112 EPA comment.docx
<http://www.epa.gov/region9/water/watershed/sfbay-delta/index.html>
<mailto:Schwinn.Karen@epamail.epa.gov>

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KAREN SCHWINN  
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----- Forwarded by Karen Schwinn/R9/USEPA/US on 08/14/2012 09:34 AM -----

From: Erin Foresman/R9/USEPA/US
To: "Jewell, Michael S SPK" <Michael.S.Jewell@usace.army.mil>
Cc: Karen Schwinn/R9/USEPA/US@EPA, "Nepstad, Michael G SPK" <Michael.G.Nepstad@usace.army.mil>, Tom Hagler/R9/USEPA/US@EPA
Date: 05/01/2012 09:48 AM
Subject: RE: BDCP: Draft Corps letter to DWR on Purpose (UNCLASSIFIED)

Hi Everyone,
Michael, thanks for your clarification and for providing us a chance to understand your discussions with DWR.

I re-worded the sentence Karen identified in her email. It is included in track changes in the attached document with a comment bubble explaining my text recommendations.

My thinking is that the letter does not need to specifically limit the range of alternatives if the purpose of this communication is to clarify the Corps' understanding about the differences between the 'program' purpose statement and the project purpose statements for 404(b)(1). I limited the sentence to the subject of purpose statements. Does DWR has a different goal in mind for this letter?

In my opinion, it is too early to make statements such as

"so that the range of alternatives analyzed under 404(b)(1) would be limited to only those which would be within the scope of activities and operations authorized by the finalized BDCP..."

We don't have complete information about project alternatives. I don't understand how or why Corps would limit what will be analyzed under 404(b)(1) for individual permits and NWP authorizations to a set of alternatives we don't yet have complete information or analyses. I don't understand that part of the letter/sentence. I do understand why we would participate in identifying bookends on a range of alternatives when we have information on which to base those decisions.

Even with a final BDCP, doesn't the Corps still retain the authority and responsibility to analyze their permit actions under 404(b)(1) even if this includes alternatives that are not part of a final BDCP?

This is the text at 40 CFR 230.10(a)(4).

(4) For actions subject to NEPA, where the Corps of Engineers is the permitting agency, the analysis of alternatives required for NEPA environmental documents, including supplemental Corps NEPA documents, will in most cases provide the information for the evaluation of alternatives under these Guidelines. On occasion, these NEPA documents may address a broader range of alternatives than required to be considered under this paragraph or may not have considered the alternatives in sufficient detail to respond to the requirements of these Guidelines. In the latter case, it may be necessary to supplement these NEPA documents with this additional information.

It would be helpful to discuss this today and understand what language you are going to use in the letter.

Thanks,

Erin

Erin Foresman

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I work a part time schedule (M 7:30a - 4:00p, T - F 7:30a - 2:00p)

-----"Jewell, Michael S SPK" <Michael.S.Jewell@usace.army.mil> wrote: -----

To: Karen Schwinn/R9/USEPA/US@EPA

From: "Jewell, Michael S SPK" <Michael.S.Jewell@usace.army.mil>

Date: 04/30/2012 11:18AM

Cc: Erin Foresman/R9/USEPA/US@EPA, "Nepstad, Michael G SPK" <Michael.G.Nepstad@usace.army.mil>, Tom Hagler/R9/USEPA/US@EPA

Subject: RE: BDCP: Draft Corps letter to DWR on Purpose (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Thanks, Karen. Perhaps we could reword that sentence. Our intent is to effectively tier-down from the NEPA EIS purpose/need and the range of alternatives of the HCP to make decisions on the individual actions requiring permits from the Corps. The message here is that we are not going to make them look at alternatives that outside of or not otherwise covered under the BDCP (i.e., such alternatives would not be practicable under the 404(b)(1)s). It doesn't mean they've completed a NEPA document and their done with 404(b)(1)s at the project level... we're still going to make them look at alternatives that are within take limits of the HCP.

Michael S Jewell

Chief, Regulatory Division

US Army Corps of Engineers, Sacramento District

-----Original Message-----

From: Karen Schwinn [mailto:Schwinn.Karen@epamail.epa.gov]
Sent: Monday, April 30, 2012 10:36 AM
To: Jewell, Michael S SPK
Cc: Erin Foresman; Nepstad, Michael G SPK; Tom Hagler
Subject: Re: BDCP: Draft Corps letter to DWR on Purpose (UNCLASSIFIED)

Mike -

I very much appreciate you sharing this draft letter. I actually don't find it to be innocuous. I have grave concerns about one statement in particular - the last sentence in the third paragraph. I do not believe this is a correct application of 404b1 as you seem to be limiting the LEDPA to only that which is permitted under BDCP, without 404b1 analysis. I'm sure this is not what you intended. I'd be happy to discuss this and/or offer an edit if that would be useful. I'm around all day today. - Karen

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From: "Jewell, Michael S SPK" <Michael.S.Jewell@usace.army.mil>
To: Karen Schwinn/R9/USEPA/US@EPA
Cc: "Nepstad, Michael G SPK" <Michael.G.Nepstad@usace.army.mil>, Tom Hagler/R9/USEPA/US@EPA, Erin Foresman/R9/USEPA/US@EPA
Date: 04/30/2012 09:42 AM
Subject: BDCP: Draft Corps letter to DWR on Purpose (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Karen:

Just wanted to share our draft letter to DWR, a follow-up to a meeting we recently had. Although pretty innocuous, it provides clarification on program vs. project purpose statements.

We're planning to send the letter this afternoon. Let me know if you have any questions/comments.

Michael S Jewell
Chief, Regulatory Division
US Army Corps of Engineers, Sacramento District

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Caveats: NONE

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